



June 14, 2007

Senate Agriculture Committee  
Lansing, Michigan

Re: SBs 447, 448, 501-504  
Regulation of factory farms

Dear Senators,

The Michigan Environmental Council opposes the current bills before the committee as inadequate to address the risks that large concentrated animal feeding operation (CAFOs) pose to public health and the environment.

CAFOs already enjoy special treatment not afforded to any other person or business that discharges pollution into the waters of the state. The special treatment currently given to all animal feeding operation (and no one else), is the ability to take a point source of pollution (a manure lagoon) and turn it into a non-point source of pollution (through land application). The discharged liquid manure is required to meet no standards, and there is no monitoring of nearby water sources to determine if the pollutants are entering the water of the state. This special treatment is unjustified, and is placing public health, water quality and the Great Lakes at risk.

This disparate treatment is obvious when you examine the treatment of municipalities on page 7, line 2 of SB 504, which states that municipalities are in prima facie violation of this act if raw sewage of **human origin** is discharged directly or indirectly into the waters of the state without a permit.

MAEAP is not a substitute for a permit – no credible evidence has been presented to this committee that the MAEAP program is a valid substitute to permitting. On the contrary all evidence shows that that program alone does not protect water quality or public health. The study included in SB 504 is a good first step. However, any permit exemption for MAEAP farms should be considered after such a study is completed.

The Michigan Environmental Council believes a credible regulatory program would include the following components:



**Soil testing:**

- CAFOs should be required to identify each field they are proposing to use over the year.
- Each field should be tested annually.

**Water testing:**

- Annual testing downstream of the CAFOs within 7 days of a land application of manure.
- Monthly testing if the field being used for land application is tiled.

If that test shows water is not meeting water quality standards, the MDEQ should implement a water quality protection monitoring program. That program should include testing both upstream and downstream of the suspected source, and identify the species of animal from which the manure or pollutants comes from. The testing should be conducted during wet and dry conditions.

If tests are conducted above shows both the following there should be a presumption that the CAFO is responsible for the water quality violation:

- 1) a violation of water quality standards,
- 2) a significant increase in pollutants downstream from a facility versus upstream, and
- 3) the presence of indicators that show a portion of the waste comes from the animals housed at the CAFO.

If the factors above are demonstrated, the CAFO should be responsible for all costs related to the testing. If all the factors are not found, cost will be paid out of a water quality protection fund established for that purpose.

**Lagoon Testing:**

Every lagoon used to the storage of liquid manure should be testing annually for structural integrity through groundwater monitoring and a physical inspection.

CAFO operators should report to the MDEQ the level of the lagoon each year on December 15, 2007. If the lagoon does not have enough capacity for anticipated waste plus the required reserve margin at that time or at any time it shall either reduce the amount of waste be transporting offsite for storage, treatment and disposal or reduce the number of animal units to a level at which the capacity would be sufficient.

An operator shall not allow liquid waste to be applied to land between December 15 and April 15, or any other times when soils are frozen.

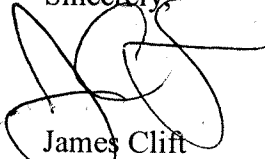
**Other problems with the bills include:**

Financial assurance mechanisms are inadequate.

Siting criteria for CAFOs result in an unconstitutional taking of private property. The siting criteria creates a sacrifice zones where a certain number of local residents may be located unacceptably close to the CAFO. Those persons should be able to bring a cause of action for any reduction in property value against the owner or operator of a CAFO if they can demonstrate that the value of their property has dropped due its proximity to the CAFO.

We are willing to work with all stakeholders to improve these bills. But, as written they should be opposed.

Sincerely,



James Clift  
Policy Director